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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 12 1982

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Dr. R. Leonard Vance
Director
Health Standards Programs
U.S. Department of Labor
Occupational Safety and Health Administration
Washington, D.C. 20210

Dear Dr. Vance,

This is in response to your letter of August 24, 1982 requesting my comments on OSHA's proposed rule published in the March 19, 1982 Federal Register. The proposal requires hazard communication programs in manufacturing workplaces where hazardous chemicals are present. "Hazardous chemicals," as defined in OSHA's proposal, would include most categories of "hazardous waste", as defined under Section 3001 of the Resource Conservation and Recovery Act (RCRA). You requested my comments on the interface of the OSHA proposal with EPA's requirements for generators of hazardous waste as established under RCRA.

EPA standards for generators of hazardous waste are contained in 40 CFR Part 262. Most of those standards concern generators' responsibilities for shipping waste off-site. However, section 262.34 governs short-term, on-site accumulation by generators. This regulation requires:

- certain standards for tanks and containers used for such accumulation;
- labelling tanks and containers with the words, "Hazardous Waste";
- marking dates on containers;
- preparation of contingency plans;
- implementation of emergency procedures; and
- employee training.

Under OSHA's proposal, most of the hazardous waste accumulated under §262.34 would be subject to the new OSHA standards as well. This does not appear to present a conflict, since the mandates of our two agencies, and thus the emphasis of our regulations, are different. There are two areas of potential overlap, however. Both sets of regulations require

labeling of containers and employee training. EPA's requirements in these areas are very general (see §262.34(a)(3) and §265.16). If OSHA's proposed rule is promulgated, EPA will consider revising the labeling and training standards in §262.34 if necessary to eliminate duplication and provide consistency with OSHA's requirements.

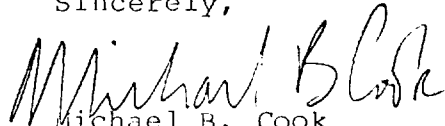
You asked a number of specific questions about the RCRA program. Following is my response:

1. As mentioned above, §262.34 requires that generators mark tanks and containers used for accumulation with the words, "Hazardous Waste". In accordance with §§262.31 - 262.33, generators who ship waste off-site must comply with DOT requirements for labeling, marking and placarding in 49 CFR 172.
2. 40 CFR 261 Subpart A outlines the scope of the definition of hazardous waste, and provides several categorical exclusions to the regulations. Section 261.5 provides a special exemption for small quantity generators. Section 261.6 provides an exemption for certain hazardous wastes that are used, reused, recycled or reclaimed.
3. As noted above, §262.31 incorporates DOT's requirements for labeling of packages containing hazardous materials.
4. The specific criteria for characterizing a waste as hazardous is given in Part 261 Subparts B-D.
5. Sections 265.16 and 264.16 requires training for employees of hazardous waste management facilities (i.e., facilities that treat, store or dispose of hazardous waste). The regulation governing accumulation by generators (§262.34) incorporates the training requirements in §265.16 by reference.
6. Part 262 Subpart B contains requirements concerning the manifest system. A manifest must accompany each shipment of hazardous waste from the site of generation to a designated RCRA facility. The MSDS would serve a different purpose than the manifest and, for the most part, would not be redundant.
7. If OSHA were to grant exemptions from labeling requirements for all hazardous wastes as defined under RCRA, then small quantity generators and some generators who use, reuse, recycle or reclaim their waste would be covered by neither OSHA or RCRA regulations for labeling.

For your information, EPA plans to propose an amendment to §262.34 which would allow generators to accumulate small amounts of hazardous waste within the workplace with minimal RCRA regulation. We are proposing this amendment in response to comments received from industry indicating that §262.34 is unnecessary and impractical to apply in the workplace. Generators accumulating hazardous waste under this amendment would be required to: 1) use containers that are in good condition; 2) use containers that are compatible with their contents; and 3) label the containers with the words "Hazardous Waste" or other words that identify their contents. When and if EPA promulgates this amendment, we will ensure that it is consistent with any OSHA standards applicable to the accumulation of hazardous chemicals.

If you have further questions on any of the information given in this letter, please contact Amy Mills of my staff at 382-4755.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael B. Cook". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael B. Cook
Deputy Director
Office of Solid Waste